

listed in paragraph (g)(1) of this section. If a suspension, revocation, or modification notice has not previously been issued pursuant to paragraph (g)(1) of this section, it shall be issued at the same time the emergency suspension notice is issued.

(ii) Notify the affected entity in writing of the grounds for the immediate suspension and why it is necessary to suspend the entity's accreditation before an opportunity for a suspension, revocation or modification hearing.

(iii) Notify the affected entity of the anticipated commencement date and duration of the immediate suspension.

(iv) Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.

(5) Any notice, decision, or order issued by EPA under this section, any transcripts or other verbatim record of oral testimony, and any documents filed by an accredited training program in a hearing under this section shall be available to the public, except as otherwise provided by section 14 of TSCA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment under section 14 of TSCA or part 2 of this title.

(6) The public shall be notified of the suspension, revocation, modification or reinstatement of a training program's accreditation through appropriate mechanisms.

(7) EPA shall maintain a list of parties whose accreditation has been suspended, revoked, modified or reinstated.

(i) *Training program recordkeeping requirements.* (1) Accredited training programs shall maintain, and make available to EPA, upon request, the following records:

(i) All documents specified in paragraph (c)(4) of this section that demonstrate the qualifications listed in paragraphs (c)(1) and (c)(2) of this section of the training manager and principal instructors.

(ii) Current curriculum/course materials and documents reflecting any changes made to these materials.

(iii) The course test blueprint.

(iv) Information regarding how the hands-on assessment is conducted including, but not limited to:

(A) Who conducts the assessment.

(B) How the skills are graded.

(C) What facilities are used.

(D) The pass/fail rate.

(v) The quality control plan as described in paragraph (c)(9) of this section.

(vi) Results of the students' hands-on skills assessments and course tests, and a record of each student's course completion certificate.

(vii) Any other material not listed above in paragraphs (i)(1)(i) through (i)(1)(vi) of this section that was submitted to EPA as part of the program's application for accreditation.

(2) The training program shall retain these records at the address specified on the training program accreditation application (or as modified in accordance with paragraph (i)(3) of this section for a minimum of 3 years and 6 months.

(3) The training program shall notify EPA in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 31098, June 9, 1999]

§ 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.

(a) *Certification of individuals.* (1) Individuals seeking certification by EPA to engage in lead-based paint activities must either:

(i) Submit to EPA an application demonstrating that they meet the requirements established in paragraphs (b) or (c) of this section for the particular discipline for which certification is sought; or

(ii) Submit to EPA an application with a copy of a valid lead-based paint activities certification (or equivalent) from a State or Tribal program that has been authorized by EPA pursuant to subpart Q of this part.

(2) Individuals may first apply to EPA for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(3) Following the submission of an application demonstrating that all the requirements of this section have been met, EPA shall certify an applicant as an inspector, risk assessor, supervisor, project designer, or abatement worker, as appropriate.

(4) Upon receiving EPA certification, individuals conducting lead-based paint activities shall comply with the work practice standards for performing the appropriate lead-based paint activities as established in § 745.227.

(5) It shall be a violation of TSCA for an individual to conduct any of the lead-based paint activities described in § 745.227 after March 1, 2000, if that individual has not been certified by EPA pursuant to this section to do so.

(6) Individuals applying for certification must submit the appropriate fees in accordance with § 745.238.

(b) *Inspector, risk assessor or supervisor.* (1) To become certified by EPA as an inspector, risk assessor, or supervisor, pursuant to paragraph (a)(1)(i) of this section, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Pass the certification exam in the appropriate discipline offered by EPA; and,

(iii) Meet or exceed the following experience and/or education requirements:

(A) Inspectors. (1) No additional experience and/or education requirements.

(2) [Reserved]

(B) Risk assessors. (1) Successful completion of an accredited training course for inspectors; and

(2) Bachelor's degree and 1 year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction), or an Associates degree and 2 years experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or

(3) Certification as an industrial hygienist, professional engineer, registered architect and/or certification in

a related engineering/health/environmental field (e.g., safety professional, environmental scientist); or

(4) A high school diploma (or equivalent), and at least 3 years of experience in a related field (e.g., lead, asbestos, environmental remediation work or construction).

(C) Supervisor: (1) One year of experience as a certified lead-based paint abatement worker; or

(2) At least 2 years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

(2) The following documents shall be recognized by EPA as evidence of meeting the requirements listed in (b)(2)(iii) of this paragraph:

(i) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) In order to take the certification examination for a particular discipline an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Meet or exceed the education and/or experience requirements in paragraph (b)(1)(iii) of this section.

(4) The course completion certificate shall serve as interim certification for an individual until the next available opportunity to take the certification exam. Such interim certification shall expire 6 months after issuance.

(5) After passing the appropriate certification exam and submitting an application demonstrating that he/she meets the appropriate training, education, and/or experience prerequisites described in paragraph (b)(1) of this section, an individual shall be issued a certificate by EPA. To maintain certification, an individual must be recertified as described in paragraph (e) of this section.

(6) An individual may take the certification exam no more than three times within 6 months of receiving a course completion certificate.

(7) If an individual does not pass the certification exam and receive a certificate within 6 months of receiving his/her course completion certificate, the individual must retake the appropriate course from an accredited training program before reapplying for certification from EPA.

(c) *Abatement worker and project designer.* (1) To become certified by EPA as an abatement worker or project designer, pursuant to paragraph (a)(1)(i) of this section, an individual must:

(i) Successfully complete an accredited course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(ii) Meet or exceed the following additional experience and/or education requirements:

(A) Abatement workers. (1) No additional experience and/or education requirements.

(2) [Reserved]

(B) Project designers. (1) Successful completion of an accredited training course for supervisors.

(2) Bachelor's degree in engineering, architecture, or a related profession, and 1 year of experience in building construction and design or a related field; or

(3) Four years of experience in building construction and design or a related field.

(2) The following documents shall be recognized by EPA as evidence of meeting the requirements listed in this paragraph:

(i) Official academic transcripts or diploma, as evidence of meeting the education requirements.

(ii) Resumes, letters of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(iii) Course completion certificates from lead-specific or other related training courses, issued by accredited training programs, as evidence of meeting the training requirements.

(3) The course completion certificate shall serve as an interim certification until certification from EPA is re-

ceived, but shall be valid for no more than 6 months from the date of completion.

(4) After successfully completing the appropriate training courses and meeting any other qualifications described in paragraph (c)(1) of this section, an individual shall be issued a certificate from EPA. To maintain certification, an individual must be re-certified as described in paragraph (e) of this section.

(d) *Certification based on prior training.*

(1) Any individual who received training in a lead-based paint activity between October 1, 1990, and March 1, 1999 shall be eligible for certification by EPA under the alternative procedures contained in this paragraph. Individuals who have received lead-based paint activities training at an EPA-authorized State or Tribal accredited training program shall also be eligible for certification by EPA under the following alternative procedures:

(i) Applicants for certification as an inspector, risk assessor, or supervisor shall:

(A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.

(B) Demonstrate that the applicant meets or exceeds the education and/or experience requirements in paragraph (b)(1)(iii) of this section.

(C) Successfully complete an accredited refresher training course for the appropriate discipline.

(D) Pass a certification exam administered by EPA for the appropriate discipline.

(ii) Applicants for certification as an abatement worker or project designer shall:

(A) Demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity.

(B) Demonstrate that the applicant meets the education and/or experience requirements in paragraphs (c)(1) of this section; and

(C) Successfully complete an accredited refresher training course for the appropriate discipline.

(2) Individuals shall have until March 1, 2000, to apply to EPA for certification under the above procedures.

After that date, all individuals wishing to obtain certification must do so through the procedures described in paragraph (a), and paragraph (b) or (c) of this section, according to the discipline for which certification is being sought.

(e) *Re-certification.* (1) To maintain certification in a particular discipline, a certified individual shall apply to and be re-certified by EPA in that discipline by EPA either:

(i) Every 3 years if the individual completed a training course with a course test and hands-on assessment; or

(ii) Every 5 years if the individual completed a training course with a proficiency test.

(2) An individual shall be re-certified if the individual successfully completes the appropriate accredited refresher training course and submits a valid copy of the appropriate refresher course completion certificate.

(3) Individuals applying for re-certification must submit the appropriate fees in accordance with § 745.238.

(f) *Certification of firms.* (1) All firms which perform or offer to perform any of the lead-based paint activities described in § 745.227 after March 1, 2000, shall be certified by EPA.

(2) A firm seeking certification shall submit to EPA a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in § 745.227 for conducting lead-based paint activities.

(3) From the date of receiving the firm's letter requesting certification, EPA shall have 90 days to approve or disapprove the firm's request for certification. Within that time, EPA shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(4) The firm shall maintain all records pursuant to the requirements in § 745.227.

(5) Firms may first apply to EPA for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(6) Firms applying for certification must submit the appropriate fees in accordance with § 745.238.

(7) To maintain certification a firm shall submit appropriate fees in accordance with § 745.238 every 3 years.

(g) *Suspension, revocation, and modification of certifications of individuals engaged in lead-based paint activities.* (1) EPA may, after notice and opportunity for hearing, suspend, revoke, or modify an individual's certification if an individual has:

(i) Obtained training documentation through fraudulent means.

(ii) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(iii) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration, or experience.

(iv) Performed work requiring certification at a job site without having proof of certification.

(v) Permitted the duplication or use of the individual's own certificate by another.

(vi) Performed work for which certification is required, but for which appropriate certification has not been received.

(vii) Failed to comply with the appropriate work practice standards for lead-based paint activities at § 745.227.

(viii) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(2) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(h) *Suspension, revocation, and modification of certifications of firms engaged in lead-based paint activities.* (1) EPA may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:

(i) Performed work requiring certification at a job site with individuals who are not certified.

(ii) Failed to comply with the work practice standards established in § 745.227.

(iii) Misrepresented facts in its letter of application for certification to EPA.

(iv) Failed to maintain required records.

(v) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(2) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(i) *Procedures for suspension, revocation, or modification of the certification of individuals or firms.*

(1) If EPA decides to suspend, revoke, or modify the certification of any individual or firm, it shall notify the affected entity in writing of the following:

(i) The legal and factual basis for the suspension, revocation, or modification.

(ii) The commencement date and duration of the suspension, revocation, or modification.

(iii) Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification or to receive certification in the future.

(iv) The opportunity and method for requesting a hearing prior to final EPA action to suspend, revoke, or modify certification.

(v) Any additional information, as appropriate, which EPA may provide.

(2) If a hearing is requested by the certified individual or firm, EPA shall:

(i) Provide the affected entity an opportunity to offer written statements in response to EPA's assertion of the legal and factual basis and any other explanations, comments, and arguments it deems relevant to the proposed action.

(ii) Provide the affected entity such other procedural opportunities as EPA may deem appropriate to ensure a fair and impartial hearing.

(iii) Appoint an official of EPA as Presiding Officer to conduct the hearing. No person shall serve as Presiding Officer if he or she has had any prior connection with the specific matter.

(3) The Presiding Officer shall:

(i) Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing;

(ii) Consider all relevant evidence, explanation, comment, and argument submitted; and

(iii) Notify the affected entity in writing within 90 days of completion of the hearing of his or her decision and order. Such an order is a final EPA action subject to judicial review.

(4) If EPA determines that the public health, interest, or welfare warrants immediate action to suspend the certification of any individual or firm prior to the opportunity for a hearing, it shall:

(i) Notify the affected entity of its intent to immediately suspend certification for the reasons listed in paragraph (h)(1) of this section. If a suspension, revocation, or modification notice has not previously been issued, it shall be issued at the same time the immediate suspension notice is issued.

(ii) Notify the affected entity in writing of the grounds upon which the immediate suspension is based and why it is necessary to suspend the entity's accreditation before an opportunity for a hearing to suspend, revoke, or modify the individual's or firm's certification.

(iii) Notify the affected entity of the commencement date and duration of the immediate suspension.

(iv) Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.

(5) Any notice, decision, or order issued by EPA under this section, transcript or other verbatim record of oral testimony, and any documents filed by a certified individual or firm in a hearing under this section shall be available to the public, except as otherwise provided by section 14 of TSCA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment

under section 14 of TSCA or part 2 of this title.

[61 FR 45813, Aug. 29, 1996, as amended at 64 FR 31098, June 9, 1999; 64 FR 42851, Aug. 6, 1999]

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

(a) *Effective date, applicability, and terms.* (1) Beginning on March 1, 2000, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.

(2) When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.

(3) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); Regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines.

(4) Clearance levels are appropriate for the purposes of this section may be found in the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil or other equivalent guidelines.

(b) *Inspection.* (1) An inspection shall be conducted only by a person certified by EPA as an inspector or risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:

(i) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and

(ii) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.

(3) Paint shall be sampled in the following manner: (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(4) The certified inspector or risk assessor shall prepare an inspection report which shall include the following information:

(i) Date of each inspection.
(ii) Address of building.
(iii) Date of construction.
(iv) Apartment numbers (if applicable).

(v) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.

(vi) Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.

(vii) Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.

(viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.